

**REMARKS**

**Introductory Comments**

Claims 2-7, 10-13, 15-20, 23-49 and 64-70 are pending in the present application. Claims 1, 8, 9, 14, 21, 22 and 50-63 have been canceled; claims 2, 18, 23, 25, 26, 31, 32 and 33 have been amended; and new claims 64-70 have been added. Reconsideration of the application is respectfully requested.

**35 U.S.C. §112 Rejections**

Claims 1, 21-23, and 25 are rejected under 35 U.S.C. 112, second paragraph as allegedly being indefinite. According to the Office action, with respect to claims 1 and 25, the term “and/or” as used in both claims is allegedly improper. Regarding claims 21-23, it is allegedly unclear as to what the difference is in the “selecting of content of the next of the plurality of puzzles” in these claims and the “selecting a next of the plurality of puzzles” in the claims to which claims 21-23 depend.

With respect to claim 1, the “and/or” term appeared in the preamble. As will be discussed below, claim 2 has been amended to incorporate the subject matter of claim 1. New claim 67 also includes at least the preamble of what was originally filed as independent claim 1. As can be seen in both claims 2 as amended and new claim 67, the preamble has been amended to remove the “and/or” limitation. Accordingly, it is respectfully requested that the rejection with respect to this specific term in claims 2 and 67 be removed.

Additionally, the term “and/or” in claim 25 has also been amended to overcome this rejection. Consequently, it is also respectfully requested that the rejection with respect to claim 25 also be removed.

With respect to claims 21 and 22, these claims have been canceled and, thus, the above rejection is now moot. Claim 23 has been amended to remove the allegedly unclear subject matter “a content of” from the claim. Consequently, it is respectfully requested that the above rejection with respect to claim 23 also be removed.

35 U.S.C. §102 and §103 Rejections

Claims 1-4, 12-14, 16, 17, 24, 26, 27, 29, 31-37, 45, 50, and 51 are rejected as allegedly being anticipated by U.S. Patent No. 6,764,395 to Guyett ("Guyett"); claims 28, 30, 44, 46-49, and 52-54 are rejected as being allegedly obvious over Guyett; claims 5-11, 15, 20-23, 38-41 and 43 are rejected as being allegedly obvious over Guyett in view of U.S. Patent No. 5,679,075 to Forrest ("Forrest"); claim 25 is rejected as being allegedly obvious over Guyett in view of U.S. Pub No. 2004/0225558 to Lipin ("Lipin"); and claims 18 and 19 are rejected as being allegedly obvious over Guyett in view of Forrest and in further view of U.S. Patent No. 6,595,859 to Lynn ("Lynn"). Claims 1, 8, 9, 14, 21, 22 and 50-63 have been canceled; and, therefore, the rejection to these claims is now moot. Further, as will be discussed in detail below, it is respectfully submitted that the amendments to claims 2, 18, 23, 25, 31, 32 and 33 have overcome the above rejections to the remaining pending claims 2-7, 9-13, 15-20 and 23-49.

Claim 2 has been amended to stand in independent form, incorporating the subject matter of claim 1 therein and also incorporating the subject matter of canceled claim 14. Claim 2 has also been amended to recite that the marketing message includes marketing information reinforcing the consumer's knowledge of the commercial entity's logo, the commercial entity's trademark, the commercial entity's trade name, the commercial entity's tag line and/or the commercial entity's product name. It is respectfully submitted that this amendment places independent claim 2 in condition for allowance.

Specifically, none of the prior art references cited, either alone or in combination, teach or suggest the method of claim 2 including the step of delivering one or more of the plurality marketing messages to the consumer based, at least in part, upon the puzzle-solving performance of the consumer, where the marketing message includes marketing information reinforcing the consumer's knowledge of the commercial entity's logo, the commercial entity's trademark, the commercial entity's trade name, the commercial entity's tag line, and/or the commercial entity's product name.

AMENDMENT

Serial No. 09/945,378

Docket No. CGR03-GN003

On page 4 of the Office action, it is argued that, with respect to claim 14, “Guyett teaches marketing messages for the game as being displayed based on performance (figure 14).” On page 8 of the Office action, it is discussed that Lynn teaches the step of providing an advertisement on the same page as the message revealing that the user has lost the game or was close to winning. But neither of these references disclose that the marketing message includes marketing information reinforcing the consumer’s knowledge of the commercial entity’s logo, the commercial entity’s trademark, the commercial entity’s trade name, the commercial entity’s tag line, and/or the commercial entity’s product name. Specifically, Guyett only informs the user that he or she has lost and provides a motivational message, while Lynn merely provides an advertising message for one of the sponsors of the interactive game. Therefore, it is respectfully submitted that claim 2, as amended, is distinguished over the references of record and in condition for allowance. Furthermore, claims 3-7, 10-13, 15-17, 20 and 23-32 which depend from claim 2 are patentable for the same reason as given above.

Similar to claim 2 discussed above, claim 18 has also been amended to stand in independent form, incorporating the subject matter of base claim 1 and original claim 2 therein and also adding recitations indicating that the visual marketing message, marketing image, audio marketing message, and/or video of a marketing message includes information reinforcing the consumer’s knowledge of the commercial entity’s logo, the commercial entity’s trademark, the commercial entity’s trade name, the commercial entity’s tag line, and/or the commercial entity’s product name. It is respectfully submitted, therefore, that this amendment places independent claim 18 in condition for allowance.

As asserted in page 8 of the Office action, with regard to claim 18 and 19, it is admitted that neither Guyett nor Forrest teaches presenting a marketing message or a correct answer to the consumer when he or she loses. However, it is argued, that since Lynn teaches an internet game that, after a loss, gives an advertisement integrated onto the same pages and method revealing that the user was close to winning, it would have been obvious to one having ordinary skill at the time the invention was made to provide a

# AMENDMENT

Serial No. 09/945,378

Docket No. CGR03-GN003

marketing message and a correct answer to the puzzle when the user loses. As discussed above, however, the marketing message of Lynn is only an advertisement for a sponsor for the website. It is not a marketing message that includes reinforcing the consumer's knowledge of the commercial entity's logo, the commercial entity's trademark, the commercial entity's trade name, the commercial entity's tag line, and/or the commercial entity's product name as claimed. Consequently, it is respectfully submitted that the rejection to claim 18, and dependent claim 19, have been overcome by this amendment. It is therefore respectfully submitted that claims 18 and 19 are in condition for allowance.

Independent claim 33 has been amended recites the following steps: (a) providing a present interactive advertising message to the consumer; (b) allowing the consumer to interact with the present interactive advertising message; (c) gathering data associated with the consumer's interactions with the present interactive advertising message; (d) generating a statistical report from the data; and (e) providing the statistical report to the commercial entity. Steps (d) and (e) are new. It is respectfully submitted that none of the cited prior references, either alone or in combination, teach or suggest such a process.

On page 4 of the Office action, with respect to claim 33, it is argued that Guyett teaches gathering data associated with the consumer's interaction with the message, citing column 10, line 17-20. This passage, however, only discloses that the player's performance is recorded in order to assess whether or not the player is judged by the program to be a winner. The Office action also cites Guyett, column 1, lines 25-27 as allegedly teaching the step of gathering data (player history) related to a commercial entity's products. This passage, however, only discloses that a player's recognition of the trademark owner, promoter, product or service promoted by a published advertisement will be used during the course of game play. Applicant notes that Guyett also discloses in column 2, lines 47-51 that an object of its invention is to allow for advertising sponsors to promote and track their products and services, but the Guyett specification never discloses how this is done. And, specifically Guyett never teaches or suggests the steps of generating a statistical report from any gathered data and providing the statistical report to the commercial entity.

AMENDMENT

Serial No. 09/945,378

Docket No. CGR03-GN003

Claims 34-49 depend from claim 33, and therefore, and is respectfully submitted that these claims are allowable for at least the same reasons as given above for claim 33. Further, new claims 64-66 (discussed below) also depend from claim 33; and, therefore, these new claims are allowable for at least the same reasons as given above for claim 33.

With respect to claims 44 and 46-49, the Office action admits that Guyett does not specify that the game gathers data related to brand type, tag lines, product benefits, imagery, and communication language in particular. However, the Office action takes Official Notice that it is old and well known that advertisements frequently contain brand type, tag lines, product benefits, imagery, and communication language, and it would have been, therefore, allegedly obvious to one having ordinary skill in the art at the time of the invention was made to gather information related not only to advertisements in general, but also related to the above categories. The applicant respectfully disagrees, and therefore traverses this rejection and also traverses the taking of Official Notice with respect to this element. Specifically, the applicant respectfully submits that none of the cited prior are of record teaches or suggests that the gathered data may be related to the consumer's awareness of the commercial entity's brand (claim 44), that the gathered data may be related to the consumer's recall of the commercial entity's tagline (claim 46), that the gathered data may be related to the consumer's recall of the benefit of the commercial entity's product/service (claim 47), that the gathered data may be related to the consumer's image association with the consumer's brand equity (claim 48), and/or that the gathered data may be related to the consumer's language association with the commercial entity's brand equity (claim 49). Consequently, it is respectfully submitted that these claims are in condition for allowance for at least the additional reasons.

As introduced above, new claim 64 recites that the statistical report of claim 33 will illustrate a number of first-time accesses of consumers to the interactive advertising message over a period of time; new claim 65 recites that the statistical report of claim 33 will illustrate a comparison of consumers who were able to identify the commercial entity's logo, trademark, trade name, tag line, and/or product name verses a competitor's logo, trademark, trade name, tag line, and/or product name; and new claim 66 recites that

the statistical report of claim 33 will illustrate information related to the consumer's interaction time with the interactive advertising message. It is respectfully submitted that none of the cited prior art, either alone or in combination, teach or suggest any of these recited steps.

New independent claim 67 incorporates what is considered to be some of the novel subject matter of claim 33, discussed above, into a substantial portion of computerized method originally recited in independent claim 1. It is respectfully submitted that none of the cited prior art references, either alone or in combination, teach or suggest such a process. Accordingly, it is respectfully submitted that new claim 67 is in condition for allowance.

New claims 68-70 depend upon claim 67 and substantially mirror new claims 64-66 as discussed above (with changes to correspondence with the differences between the base claims). Accordingly, it is respectfully submitted that new claims 68-70 are allowable for at least the same reasons as given above for claim 67 and/or claims 64-66.

#### Conclusion

In light of the foregoing, it is respectfully submitted that claims 2-7, 10-13, 15-20, 23-49 and 64-70, now pending, are patentably distinct from the references cited and are in condition for allowance. Withdrawal of the rejections of record are respectfully requested. The Commissioner is hereby authorized to charge the additional fees required by this response, or to credit any overpayment to Deposit Account 50-3072.

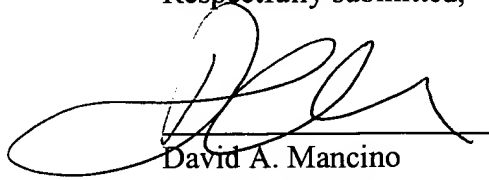
AMENDMENT

Serial No. 09/945,378

Docket No. CGR03-GN003

In the event that the Examiner wishes to discuss any aspect of this response,  
please contact the undersigned at the telephone number indicated below.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'D. Mancino', written over a horizontal line.

David A. Mancino

Reg. No. 39,289

30074

Taft, Stettinius & Hollister LLP

425 Walnut Street, Suite 1800

Cincinnati, OH 45202-3957

513-357-9331